

IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, MORIOGAON, ASSAM.

PRC Case No. 1339/2018

U/S 498(A)/34 IPC

STATE OF ASSAM

-VS-

1. MD. HABIBUR RAHMAN, S/O MD. ABDUL AZIT.

2. MD. NABI HUSSAIN, S/O MD. ABDUL AZIT.

3. MUSST. KADBANU, W/O MD. ABDUL AZIT.

4. MD. ABDUL AZIT, S/O LT. DOULAT ALI.

ALL R/O SAHARIYAGAON, P/S MOIRABARI.

DIST: MORIGAON, ASSAM.

..... ACCUSED PERSONS.

PRESENT: -

SMTI. ANAMIKA BARMAN, LL.M., A.J.S.

JUDICIAL MAGISTRATE FIRST CLASS

MORIGAON, ASSAM.

FOR THE STATE: -

MR. M. ISLAM, LEARNED A.P.P.

FOR THE ACCUSED: -

MR. ABDUS SALAM, LEARNED ADVOCATE.

EVIDENCE RECORDED ON: - 14.11.2019.

ARGUMENT HEARD ON: - 14.11.2019.

JUDGMENT DELIVERED ON: - 14.11.2019.

JUDGMENT

1. The brief of the prosecution story is that one Musstt. Rezbina Begum filed an FIR before the Officer-in-Charge, Moirabari P.S. on 04.06.18 alleging inter-alia that about two and a half years prior to the filing of the FIR, she got married to the accused Md. Habibur Rahman and she also has a son with him aged about one and a half years. However, after a few days of her marriage her husband started torturing her physically and mentally by demanding Rs.50,000/- (Rupees Fifty Thousand only) from her. The informant kept tolerating such tortures for the sake of her minor son. However, on 21.05.18, at about 03:00 pm, her husband assaulted her and drove her out of her matrimonial house along with her minor son. Hence, the case. As the informant waited for the matter to be amicably settled between the parties, there was delay in lodging the case.
2. One receipt of the ejahar, Moirabari P.S. Case No. 198/18 u/s 498(A) of the IPC was registered and investigated into. On completion of the investigation, I/O filed charge-sheet against the accused persons, namely, Md. Habibur Rahman, Md. Nabi Hussain, Musstt. Kad Banu and Md. Abdul Azit u/s 498(A) of the IPC.
3. In pursuant to the court-process, the accused persons appeared before the court. Copies of relevant documents were furnished to the accused persons u/s 207 of Cr. P.C. After hearing the learned counsels for both the sides and on finding sufficient prima facie materials to presume that the accused persons had committed offence punishable u/s 498(A)/34 of IPC, charge under the said section was framed, read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.
4. In support of its case, the prosecution examined only 1 (one) witness. In view of the evidence recorded, the Ld. APP verbally submitted to close PWs as the prosecution declined to adduce further evidence. After closure of prosecution evidence, statement U/S 313 of Cr.P.C. has been dispensed with as found not necessary. Heard the arguments put forward by the learned Counsels for both the sides as well as gone through the evidences available on record.

5. **Point for determination:**

(I) Whether the accused persons, being the husband and relatives of the husband of the informant/victim Musstt. Rezbina Begum, subjected her to cruelty in furtherance of their common intention, and hence committed an offence u/s 498(A)/34 IPC?

Discussion, Decision and Reasons thereof:-

6. In this case, the prosecution examined only 1 (one) witness. The informant/victim Musstt. Rezbina Begum Begum was examined as PW-1 to prove the charge against the accused person.

7. Before going to decide the points for determination, let me describe the evidence in brief. *In her examination-in-chief* PW-1/informant/victim, Musstt. Rezbina Begum, deposed that she is the informant and the accused persons standing on the dock. The accused Habibur is her husband and the other accused persons are her in-laws. She got married to the accused Habibur in the year 2016 and she has two children with him. She further deposed she had filed the instant case in the year 2018. On the date of the incident, she had a verbal altercation with the accused persons over some family matters and she filed the instant case in that misunderstanding. At present she is peacefully living with her husband and her in-laws in her matrimonial house.

8. *During her cross examination*, PW-1 stated she does not have any objection if the accused person is acquitted.

9. On perusal of the evidences recorded by the prosecution side, it appears that the PW-1/informant/victim is not willing to proceed with the case further and she stated that the case was filed out of some misunderstanding. At present she is peacefully living with her husband and her in-laws in her matrimonial house and she does not have any objection if the accused persons are acquitted.

10. In view of the evidence on record, the prosecution side declined to adduce further evidence. This being so there is nothing in the evidence of prosecution

warranting conviction of the accused persons u/s 498(A)/34 IPC as the evidence of the prosecution witness is found to be not acceptable and reliable.

11. Considering the above, I came to the safe conclusion that the prosecution has failed to prove the charge u/s 498(A)/34 IPC against the accused persons beyond reasonable doubt. Accordingly, the accused persons are found not guilty of the offence charged against them and are acquitted.

ORDER

1. In the light of the above decision, the accused persons are acquitted of the charge under section 498(A)/34, IPC and set at liberty forthwith.

2. The bail bonds of the accused persons are extended for a period of 6(six) months as per section 437-A, CrPC.

3. Given under my hand & seal of this Court and delivered in the open Court on this 14th day of November, 2019.

Dictated and corrected by me

(Miss. Anamika Barman)

JMFC, Morigaon

(ANAMIKA BARMAN)

Judicial Magistrate First Class

Morigaon, Assam

APPENDIX

PROSECUTION WITNESSES:

1. P.W.-1, MUSSTT. REZBINA BEGUM.

DEFENCE WITNESSES:

NIL

EXHIBITED DOCUMENTS:

NIL

**(ANAMIKA BARMAN)
JMFC, MORIGAON
ASSAM**